

EXHIBIT 1

12-Person Jury

Hearing Date: 1/14/2020 9:30 AM - 9:30 AM
 Courtroom Number: 2308
 Location: District 1 Court
 Cook County, IL

FILED
 9/16/2019 4:21 PM
 DOROTHY BROWN
 CIRCUIT CLERK
 COOK COUNTY, IL

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 COUNTY DEPARTMENT, CHANCERY DIVISION**

PEOPLE'S CHOICE HOSPITAL, LLC, a
 Delaware limited liability corporation,

6590516

Plaintiff,

v.

QUORUM HEALTH CORPORATION, a
 Delaware corporation,

Defendant.

Case No. 2019CH10700

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff People's Choice Hospital ("PCH") brings this action against Defendant Quorum Health Corporation ("Quorum") for attempting to close MetroSouth Medical Center under false pretenses and in breach of an agreement on all material terms that PCH reached with Quorum to purchase the hospital. Plaintiff, for its Complaint, alleges as follows based upon personal knowledge as to itself, and for all other matters, upon information and belief:

NATURE OF THE ACTION

1. In a move that has become surprisingly commonplace in Illinois, an out-of-state for-profit company has decided to shutter a community hospital, leaving its patients and employees in the lurch. Like those before it, Quorum has lied to the public and the Illinois Health Facilities and Services Review Board ("Review Board") by claiming that it doesn't have enough money to continue operating MetroSouth Medical Center ("MetroSouth") and cannot find any buyers. In fact, Plaintiff PCH has negotiated with Quorum to purchase the hospital for \$20 million and stands ready, willing, and able to complete the transaction.

2. To pay down company debt, Quorum decided to close and liquidate MetroSouth,

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a full-service hospital located in Blue Island with 314 beds and more than 800 employees that treats nearly 100,000 people every year, including tens of thousands of medically vulnerable community members that cannot otherwise afford to pay for medical services.

3. Knowing that it would face public outrage, Quorum publically announced that it was forced to close MetroSouth because it was losing millions and couldn't find any company that was interested in purchasing the hospital. These statements are false.

4. On July 9, 2019, PCH—an Illinois-based hospital turnaround company—agreed to purchase MetroSouth from Quorum for the asking price of \$20 million. Both sides engaged sophisticated attorneys from two of the largest law firms in the world to handle the transaction. Drafts of the purchase agreement were exchanged, PCH ultimately accepted Quorum's edits, and the parties reached agreement on all material terms.

5. Unfortunately, while working to finalize the agreement in August, Quorum suddenly refused to move forward with the transaction unless PCH immediately tendered a \$1 million non-refundable deposit, which was something that had never been previously requested or agreed upon. Though this eleventh-hour demand was made in bad faith, PCH had—and still has—tremendous interest in purchasing the hospital, and thus, attempted to negotiate the newly added term and made a counteroffer. Quorum then, without explanation, stopped communicating with PCH and its lawyers.

6. Though it knows that PCH is anxious to purchase MetroSouth—and stands ready, willing, and able to do so—Quorum has continued making false representations aimed at convincing the public, hospital employees, politicians, and the Review Board that there are no potential hospital buyers. Recently, on August 23, 2019, Quorum's Executive Vice President submitted a letter to the Review Board representing that it has reached out to 40 health systems

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and hospitals, but nobody is willing to purchase the hospital. According to Quorum, closing MetroSouth is a “step [it] must now undertake after having exhausted all other options.”¹

Likewise, on August 28, 2019, Quorum issued a press release stating “We can confirm we have had conversations with numerous third parties about transferring the hospital property and assets. Simply put, we have worked to give the hospital away to a qualified operator for several months.”²

7. Based on Quorum’s conduct over the past several months, it is clear that it never had any intention of selling MetroSouth to PCH (or any other potential buyer). Instead, pursuant to its plan of paying down company debt, Quorum would rather cash out the hospital’s Accounts Receivables—currently worth approximately \$25 million—and liquidate the assets to walk away from MetroSouth with approximately \$64 million.

8. Quorum’s scheme to close MetroSouth will deprive the residents of Blue Island and the neighboring communities of access to critical health care and rip away more than 800 jobs from the State of Illinois. Quorum is counting on the Review Board to grant its application to close, in which case, it will liquidate the MetroSouth and deprive PCH of the opportunity to invest money in a hospital and work force that provides care to medically and socially vulnerable communities that desperately need it.

9. PCH brings this action to hold Quorum accountable for fraud, breach of contract, and breach of the implied covenant of good faith and fair dealing, and seeks, among other things,

¹ Quorum’s August 23, 2019 “Response to Letter of Concern,” <https://www2.illinois.gov/sites/hfsrb/Projects/ProjectDocuments/Exempt/E-024-19/2019-08-26%20E-024-19%20Quorum%20Health%20Response%20to%20General%20Assembly%20Members%20Letter.pdf> (last accessed Sept. 16, 2019).

² “Quorum refuses to negotiate sale of soon-to-shutter hospital, potential buyer says,” <https://www.beckershospitalreview.com/hospital-transactions-and-valuation/quorum-refuses-to-negotiate-sale-of-soon-to-shutter-hospital-potential-buyer-says.html> (last accessed Sept. 16, 2019).

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and award of specific performance requiring Quorum to complete the sale of MetroSouth in accordance with the material terms already agreed upon.

PARTIES

10. Plaintiff People's Choice Hospital LLC is a limited liability corporation existing under the laws of the State of Delaware, with its principal place of business located at 1200 Harger Road, Oak Brook, Illinois 60523.

11. Defendant Quorum Health Corporation is a corporation existing under the laws of the State of Delaware with its principal place of business located at 1573 Mallory Lane, Suite 100, Brentwood, Tennessee 37027.

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction over the claims pursuant to Article VI, Section 9 of the Illinois Constitution.

13. This Court has jurisdiction over Quorum Health Corporation pursuant to 735 ILCS 5/2-209 because it conducts business transactions in Illinois, owns real property in Illinois, and maintains offices in Illinois.

14. Venue is proper in this Court because MetroSouth is located in Cook County and the cause of action arises out of a transaction occurring in Cook County.

FACTUAL BACKGROUND

15. PCH is an award winning innovative and technology driven hospital management company. In early 2019, PCH began negotiating with Quorum to purchase MetroSouth. Unbeknownst to PCH, Quorum never intended to sell MetroSouth to PCH or anyone at all.

16. Instead, Quorum intended to shut the hospital down after generating sufficient accounts receivable and bleeding the finances dry through a \$4 million per year management

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contract paid to Quorum's executives. On information and belief, substantially no management services were provided through this contract; instead, MetroSouth continued to pay an in-house management team in addition to the illusory Quorum management contract.

17. Nevertheless, in order to provide public-relations cover for their eventual plan to close MetroSouth, Quorum went through the motions of offering the hospital to buyers like PCH.

18. After an initial review of MetroSouth's operations and assets in April and May 2019, PCH engaged in negotiations with Quorum to issue a letter of intent.

19. On May 17, 2019, the Parties agreed to a letter of intent, whereby PCH would purchase MetroSouth after a period of due diligence. PCH would acquire all of MetroSouth's assets, would hire on all current employees at their current compensation levels, and would continue to provide care to indigent individuals at the Hospital.

20. The Parties began to negotiate the purchase price of the ospital. These discussions would continue through June and early July, primarily focused on deciding the purchase price of the Hospital. During that time, PCH conducted due diligence and began incurring significant amounts of fees due to the drafting and negotiation of the purchase agreement.

21. Meanwhile, on June 11, 2019, Quorum filed an application with the Review Board falsely stating that it had been unable to find a buyer for MetroSouth. Quorum detailed its supposed efforts to find a credible buyer and inexplicably asserted there was none.

22. Nonetheless, Quorum executive Kenneth King provided a detailed proposal on July 8, 2019 concerning the purchase price of all assets that PCH would acquire through the sale. Under the proposal, PCH would agree, based on the current value of the accounts receivable, to pay approximately \$20 million to purchasae MetroSouth. The figure was tied to a formula that might produce a different final purchase price based on the value of certain of MetroSouth's

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assets at the time of the deal closing. PCH accepted the proposal subject to a short due diligence period on July 9, 2019, and asked if Quorum would withdraw its application for discontinuance.

23. Quorum executive Kenneth King responded later that day (on July 9, 2019), and for the first time, indicated that Quorum would only “call off the closure process” in front of the Review Board if PCH paid a \$1 million non-refundable deposit or signed a definitive purchase agreement (which neither side had yet finished).

24. By that time, PCH had already invested significant time and money into the purchase of MetroSouth and was, again, optimistic that a purchase agreement could be achieved before the closure of the hospital or that Quorum would move away from the demanded non-refundable deposit. Given that all material terms had been agreed upon, PCH indicated that it would continue forward in negotiations with drafting a full purchase agreement.

25. On July 24, 2019, the Review Board held a public hearing on MetroSouth’s closure. There, Quorum executives John Walsh and Kenneth King repeatedly represented that they had diligently attempted to locate a buyer and had been unsuccessful in finding one. Quorum also asked Frank Walker, a specialist it had retained in an effort to sell the hospital, describe Quorum’s efforts in 2019 to sell MetroSouth. Walker admitted that Quorum had received a “letter of interest from one party in May 2019,” but “[w]e deemed that interest to be speculative and not credible as that party had no recent experience operating a hospital and was unable to identify financing sources necessary to fund a transaction.” Presumably, Walker was referring to PCH, but this statement was in every material respect untrue: Quorum did not think PCH’s interest was speculative, PCH had access to capital, and Quorum was still actively working to sell the Hospital to PCH based on an *already-agreed-upon* purchase price. Further, PCH’s financing for the purchase was officially approved by the lender on August 13, 2019.

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26. Worse yet, and without the knowledge of PCH's, Quorum had already begun shutting down certain critical services at MetroSouth. In August, Quorum effectively shut down the cardiac care unit. In addition to providing lifesaving care to the community, cardiac care is a lynchpin of MetroSouth's ability to survive financially. On information and belief, Quorum also began the process of shutting down surgery and labor and delivery services by notifying staff that these units would be shuttered and slowing the intake of patients.

27. On July 31, 2019, PCH sent a full draft of the purchase agreement to Quorum.

28. On August 1, 2019, Quorum refused to lower its demand for a \$1,000,000.00 non-refundable deposit. At the same time, it identified the major issues to the full draft of the purchase agreement that they identified.

29. On August 6, 2019, Quorum returned the draft to PCH with redlines. The only remaining issue was the newly demand for a non-refundable deposit. The parties attempted to negotiate the deposit over the following days, and Quorum eventually reduced its demand for a deposit to \$750,000.00. PCH countered three days later, offering to pay a \$450,000.00 deposit.

30. On August 13, 2019, PCH informed Quorum that its financing had been approved and that it would move forward with purchasing the hospital without any further due diligence or delay. Quorum responded by continuing to insist on a \$750,000.00 deposit.

31. Despite PCH's repeated attempts to engage and negotiate the deposit amount—even though it was added after all other terms were agreed upon—Quorum and its attorneys went dark and have failed to respond or communicate since then.

COUNT I
FRAUDULENT MISREPRESENTATION

32. Plaintiff re-alleges and incorporates the allegations contained above as if fully set forth herein.

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33. As detailed above, Quorum has made numerous statements—both publicly and to the Review Board—in the hopes of convincing the public, politicians, Blue Island residents, and the Review Board that there are no potential buyers willing to purchase MetroSouth.

34. Quorum first made these statements to the Review Board when it filed its application on June 16, 2019, and then again during the public hearing on July 24, 2019, when Quorum’s Senior Vice President, Kenneth King, testified, *inter alia*, that:

- Quorum has been “unsuccessful in finding an organization to take over the operations of MetroSouth.” (Trans. at 18:19-22).
- “We spoke with the Chicago-based health systems multiple times with no success. We spoke with not-for-profit health systems that operated throughout the state with no success . . . We spoke with many, many for-profit health systems in the country and no one was interested.” (Trans. at 18:23-19:6).

35. Quorum’s Chief Executive Officer of MetroSouth, John Walsh, also testified during the July 24, 2019 hearing and stated that:

- “[R]epresentatives for the hospital have been working for three years to find a solution that would allow the hospital to continue operating in some form.” (Trans. at 9:4-7).
- “None of those efforts, including reaching out to almost 40 healthcare providers and companies in Chicago, across the state, and through the country, have been successful thus far. The providers we reached out to said they too would be unable to operate the hospital as is and shared our concern over mounting financial, operational, and competitive challenges.” (Trans. at 9:8-15).

36. Quorum again reiterated these representations in a letter it submitted to the Review Board on August 23, 2019, in which Quorum’s Vice President Martin Smith promises that Quorum has “exhausted all other options” and has left “no stone unturned” in searching for a buyer.³

³ See, *supra*, fn 2.

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37. Quorum had actual and specific knowledge that these representations were false at the time they were made. In fact, PCH had already begun negotiating with Quorum in March (months before Quorum submitted its application to the Review Board), and by the time Quorum testified at the public hearing on July 24, PCH had *already* agreed to Quorum's asking price of approximately \$20 million (which PCH communicated to Quorum on July 16).

38. The reason that Quorum made these fraudulent misrepresentations is because it wanted to convince the Review Board (as well as the public and the politicians) that there were no prospective purchasers for MetroSouth and that it did everything in its power to find one. Quorum believes that with these representations, it is more likely to receive approval from the Review Board during the upcoming hearing on September 17, 2019, and that without these representations, approval to close could be delayed. As such, these representations were material and Quorum intended for the Review Board to rely on them.

39. In reality, Quorum never intended to complete the transaction with PCH as it instead had already decided that it would be more lucrative to close and liquidate the hospital, and walk away with approximately \$64 million.

40. PCH suffered and will continue to suffer considerable injury resulting from Quorum's fraud. Since March 2019, PCH has aggressively pursued the purchase of MetroSouth and diverted a substantial majority of the company's assets and personnel toward completing the transactions. PCH also hired attorneys and incurred substantial costs relating to regulatory compliance and the negotiation and drafting of the purchase agreement. PCH also lost money, capital, and other costs to secure financing for the transaction, which remains available to this day to complete the purchase of MetroSouth. PCH also incurred substantial damages resulting from Quorum's refusal to sell MetroSouth in accordance with the agreed upon material terms.

COUNT II
PROMISSORY ESTOPPEL

41. Plaintiff re-alleges and incorporates the allegations contained above as if fully set forth herein.

42. Quorum's actions in communicating with PCH between March and August 2019 were designed to induce PCH into believing that Quorum was negotiating in good faith to enter into an agreement to sell MetroSouth and that Quorum would ultimately take the steps necessary to complete the transaction.

43. The Parties continuously negotiated the purchase price of MetroSouth between from March through July 16 and July 9, 2019, at which time PCH accepted Quorum's asking price of \$20 million. At no time before PCH's acceptance of the asking price did Quorum's representatives make any mention of a non-refundable deposit to avoid a shutdown of the hospital.

44. In reality, Quorum was stringing PCH along. Quorum never intended to complete the transaction with PCH as it instead had already decided that it would be more lucrative to close and liquidate the hospital, and walk away with approximately \$64 million.

45. PCH reasonably believed that Quorum was willing to complete the transaction for the sale of MetroSouth, as the parties reached agreement on all material terms and both sides hired attorneys from two of the largest law firms in the world to handle the regulatory and transactional aspects of the deal.

46. PCH relied on Quorum's agreement to sell it MetroSouth. PCH aggressively diverted a substantial majority of the company's assets and personnel toward completing the transactions. PCH also hired attorneys and incurred substantial costs relating to regulatory compliance and the negotiation and drafting of the purchase agreement. PCH also lost money,

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capital, and other costs to secure financing for the transaction, which remains available to this day to complete the purchase of MetroSouth. PCH also incurred substantial damages resulting from Quorum's refusal to sell MetroSouth in accordance with the agreed upon material terms.

COUNT III
BREACH OF CONTRACT

47. Plaintiff re-alleges and incorporates the allegations contained above as if fully set forth herein.

48. PCH and Quorum entered into an agreement for the purchase of MetroSouth.

49. All material terms were agreed upon, including the purchase price, as PCH agreed to pay Quorum its asking price of \$20 million.

50. PCH accepted the offer to purchase the hospital on July 9, 2019.

51. Quorum breached the contract by refusing to consummate the transaction.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff People's Choice Hospital LLC respectfully requests that the Court enter an order granting the following relief:

- A. Declaring that Defendant Quorum Health Corporation made fraudulent misrepresentations to the Plaintiff and to the Review Board, and engaged in a scheme to defraud;
- B. Awarding damages incurred by Plaintiff as a result of Defendant Quorum Health Corporation's misconduct to be determined at trial;
- C. Ordering Defendant Quorum Health Corporation to complete the sale of MetroSouth to Plaintiff in accordance with the agreed upon terms of the transaction;
- D. Awarding such and other injunctive and declaratory relief as is necessary;
- E. Awarding Plaintiff compensatory and punitive damages against Defendant Quorum Health Corporation;
- F. Awarding Plaintiff reasonable attorneys' fees and costs;

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G. Awarding Plaintiff pre- and post-judgment interest; and

H. Awarding such other and further relief as equity and justice may require.

Respectfully submitted,

People's Choice Hospital, LLC

Dated: September 16, 2019

By: /s/ Ari J. Scharg
One of Plaintiff's Attorneys

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